

tender offers (see Rule 13e-4(f)(12) (§240.13e-4(f)(12) of this chapter) and Rule 14e-1(e) (§240.14e-1(e) of this chapter).

§ 232.202 Continuing hardship exemption.

(a) An electronic filer may apply in writing for a continuing hardship exemption if all or part of a filing or group of filings otherwise to be filed in electronic format cannot be so filed without undue burden or expense. Such written application shall be made at least ten business days prior to the required due date of the filing(s) or the proposed filing date, as appropriate, or within such shorter period as may be permitted. The written application shall contain the information set forth in paragraph (b) of this section.

(1) The application shall not be deemed granted until the applicant is notified by the Commission or the staff.

(2) If the Commission, or the staff acting pursuant to delegated authority, denies the application for a continuing hardship exemption, the electronic filer shall file the required document in electronic format on the required due date or the proposed filing date or such other date as may be permitted.

(3) If the Commission, or the staff acting pursuant to delegated authority, determines that the grant of the exemption is appropriate and consistent with the public interest and the protection of investors and so notifies the applicant, the electronic filer shall follow the procedures set forth in paragraph (c) of this section.

(b) The request for the continuing hardship exemption shall include, but not be limited to, the following:

(1) The reason(s) that the necessary hardware and software is not available without unreasonable burden and expense;

(2) The burden and expense involved to employ alternative means to make the electronic submission; and/or

(3) The reasons for not submitting electronically the document or group of documents, as well as justification for the requested time period.

(c) If the request is granted, the electronic filer shall submit the document or group of documents for which the continuing hardship exemption is

granted in paper format on the required due date specified in the applicable form, rule or regulation, or the proposed filing date, as appropriate. The following legend shall be placed in capital letters at the top of the cover page of the paper format document(s):

IN ACCORDANCE WITH RULE 202 OF REGULATION S-T, THIS (SPECIFY DOCUMENT) IS BEING FILED IN PAPER PURSUANT TO A CONTINUING HARDSHIP EXEMPTION

(d) If a continuing hardship exemption is granted for a limited time period, the grant may be conditioned upon the filing of the document or group of documents that is the subject of the exemption in electronic format upon the expiration of the period for which the exemption is granted.

NOTE: Where a continuing hardship exemption is granted with respect to an exhibit only, the paper format exhibit shall be filed under cover of Form SE (§§239.64, 249.444, 259.603, 269.8 and 274.403 of this chapter).

PREPARATION OF ELECTRONIC
SUBMISSIONS

§ 232.301 EDGAR Filer Manual.

Electronic filings shall be prepared in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The March 1997 edition of the EDGAR Filer Manual: Guide for Electronic Filing with the U.S. Securities and Exchange Commission (Release 5.20) is incorporated into the Code of Federal Regulations by reference, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Compliance with the requirements found therein is essential to the timely receipt and acceptance of documents filed with or otherwise submitted to the Commission in electronic format. Paper copies of the EDGAR Filer Manual may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1-2, 450 5th Street, N.W., Washington, D.C. 20549. They also may be obtained from Disclosure Incorporated by calling (800) 638-8241. Electronic format copies are

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available through the EDGAR electronic bulletin board. Information on becoming an EDGAR E-mail/electronic bulletin board subscriber is available by contacting CompuServe Inc. at (800) 848-8199. Copies may be inspected at the Office of the Federal Register, Suite 700, 800 North Capitol Street, N.W., Washington, D.C.

[62 FR 8878, Feb. 27, 1997; 62 FR 13821, Mar. 24, 1997]

§ 232.302 Signatures.

(a) Signatures to or within any electronic submission shall be in typed form rather than manual format. When used in connection with an electronic filing, the term "signature" means an electronic entry in the form of a magnetic impulse or other form of computer data compilation of any letter or series of letters comprising a name, executed, adopted or authorized as a signature.

(b) Each signatory to an electronic filing shall manually sign a signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing. Such document shall be executed before or at the time the electronic filing is made and shall be retained by the filer for a period of five years. Upon request, an electronic filer shall furnish to the Commission or its staff a copy of any or all documents retained pursuant to this section.

(c) Where the Commission's rules require a registrant to furnish to a national securities exchange or national securities association paper copies of a document filed with the Commission in electronic format, signatures to such paper copies may be in typed form.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994]

§ 232.303 Incorporation by reference.

(a) The following documents shall not be incorporated by reference into an electronic filing:

(1) Any document filed in paper in violation of mandated electronic filing requirements;

(2) Any document filed in paper pursuant to a temporary hardship exemption for which a required confirming

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electronic copy has not been submitted.

(3) For a registered investment company or a business development company making an electronic submission more than three years after its phase-in date, documents that have not been filed in electronic format, unless:

(i) The document has been filed in paper pursuant to a hardship exemption (§§ 232.201 and 232.202 of this chapter) and any required confirming copy has been submitted or

(ii) The document is an exhibit, filed in paper in accordance with applicable rules, to Form N-SAR being incorporated by reference into another Form N-SAR filing.

(4) Any Financial Data Schedule required under Rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

(b) If any portion of the annual or quarterly report to security holders is incorporated by reference into any electronic filing, such portion of the annual or quarterly report to security holders shall be filed in electronic format as an exhibit to the filing, as required by Item 601(b)(13) of Regulation S-K (§ 229.601(b)(13) of this chapter) and Item 601(b)(13) of Regulation S-B (§ 228.601(b)(13) of this chapter).

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994]

§ 232.304 Graphic, image and audio material.

(a) If a filer includes graphic, image or audio material in a document delivered to investors and others that cannot be reproduced in an electronic filing, the electronically filed version of that document shall include a fair and accurate narrative description, tabular representation or transcript of the omitted material. Such descriptions, representations or transcripts may be included in the text of the electronic filing at the point where the graphic, image or audio material is presented in the delivered version, or they may be listed in an appendix to the electronic filing. Immaterial differences between the delivered and electronically filed versions, such as pagination, color, type size or style, or corporate logo need not be described.